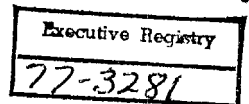


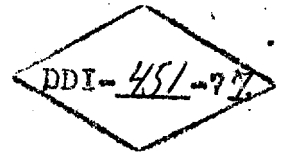
NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20505



SECRET

February 4, 1977

TO: The Secretary of State
The Secretary of Defense



ALSO: The Secretary of the Treasury
The Attorney General
The Secretary of Commerce
The Chairman, Joint Chiefs of Staff
The Acting Director of Central Intelligence
The Chairman, Federal Maritime Commission

SUBJECT: Coast Guard Peacetime Rules of Engagement

Attached is a memorandum from the Secretary of Transportation, entitled "Coast Guard Peacetime Rules of Engagement". May we please have your comments and/or recommendations on these proposed rules not later than Monday, February 14, 1977?

Jeanne W. Davis
Jeanne W. Davis
Staff Secretary

Attachment
a/s

Not referred to DOC. Waiver
applies.

DHS Review
Completed.

SECRET/GDS

NSC review completed.



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

JAN 21 1977

MEMORANDUM FOR THE NATIONAL SECURITY COUNCIL
THE WHITE HOUSE

Subj: Coast Guard Peacetime Rules of Engagement

Over the years, in carrying out its responsibilities as the United States' primary maritime law enforcement agency, the Coast Guard has accumulated extensive experience and expertise in handling various encounters with foreign vessels. The purpose of this memorandum is to seek the imprimatur of the National Security Council for the enclosed Peacetime Rules of Engagement, which is a codification of the procedures developed by the Coast Guard for handling these encounters.

The procedures set forth in the proposed "Coast Guard Peacetime Rules of Engagement for Encounters with Foreign Vessels at Sea" reflect the Coast Guard's customary measured and conservative approach to these situations. Our reason for presenting them to the National Security Council at this time is not to gather support for an abrupt departure from our past practices. Rather, we merely feel that the growing frequency and sensitivity of these encounters, and the possibility that our enforcement, commencing March 1, 1977, of the 200-mile Fishery Conservation Zone might give rise to critical situations which call for their application, make it prudent to reexamine these procedures to ensure that they are in keeping with the policy of the various levels and departments of the executive branch. With this in mind, I ask that you take such steps as you feel are necessary to obtain approval of these rules from all concerned agencies.

John W. Barnum
Acting SecretaryEncl: Coast Guard Peacetime Rules of Engagement for Encounters with
Foreign Vessels at Sea (U)Not referred to DOC. Waiver
applies.

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DRAFT

COAST GUARD

PEACETIME RULES OF ENGAGEMENT

FOR

ENCOUNTERS WITH FOREIGN VESSELS AT SEA (U)

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1. (U) Purpose: This part of the Peacetime Rules of Engagement promulgates rules for exercising the right of self-defense against a foreign force or person.

2. (S) The right of self-defense may be invoked against: (1) any action by foreign military or subversive forces which intentionally poses a clear and present danger to the security of the United States or any of its forces, territory, or possessions; or (2) any action which presents a threat of imminent death or serious injury to Coast Guard personnel or persons under the protection of the Coast Guard. Actions which fall within the first category are known as "hostile acts." They include, when committed outside the territory, airspace, or territorial waters of a foreign country:

a. An attempt or action to release bombs, launch missiles, or fire guns, rockets, torpedoes or other weapons at any forces of the United States.

b. Actions which place U.S. craft, installations or personnel in jeopardy, including (1) the positioning of foreign forces with respect to U.S. forces in a manner which threatens the safety of the U.S. forces; and (2) execution of a bombing or strafing approach or an interception pass where weapons are brought to bear.

3. (S) Situations Involving "Hostile Acts" by Foreign Military Forces.

a. Recognition of Hostility: The senior military commander on scene, including the commanding officer of a single ship or the aircraft commander of a single aircraft, may recognize an act as hostile without a declaration from higher authority.

b. Guidance in Recognizing an Act as Hostile:

(1) The responsibility for recognizing acts as hostile is of grave importance. Acts shall not be recognized as hostile unless all pertinent circumstances clearly show that the act does in fact involve a clear and present danger to the security of U.S. forces, or vessels, aircraft or persons under the protection of U.S. forces. It is critical in these situations to distinguish between intent to harm and intent to harass. Incidents of interception without actual attack may be harassment, but whether performed for training, bluff or identification purposes, the elements of hostile intent and clear and present danger do not exist and restraint is in order.

(2) However, should these "harassing" forces engage in even a sporadic or isolated attack, if positive information that they have been ordered to attack is received, the hostile intent is established and, if a clear and present danger exists, the Coast Guard commanding officer/aircraft commander should recognize the act as hostile and take action in accordance with these Rules of Engagement.

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c. Specific Rules of Engagement

(1) Foreign vessels or aircraft committing hostile acts shall be counter-attacked immediately by all means available to the extent necessary to effect control of the situation. This may include pursuit if necessary to ensure the safety of U.S. forces or territory. Coast Guard units shall not conduct prolonged pursuit deep into hostile areas or neutral territory and shall not organize or dispatch a pursuing force solely to effect reprisal.

(2) A Coast Guard commander faced with a threat of a hostile act by foreign military forces shall call for assistance from Department of Defense forces. Specific methods and procedures for requesting such assistance will be promulgated by standard Coast Guard Area, District, or specific Mission Operation Orders. Specific rules of engagement for Department of Defense (DOD) forces acting in response to a request for assistance from a Coast Guard unit are promulgated by JCS, CINCPAC and CINCLANT, and generally provide for the immediate dispatch of DOD forces to the scene to provide protection to the threatened forces as appropriate.

(3) Coast Guard ships and aircraft shall use available photographic and electronic recording equipment to document a hostile act or threat of a hostile act.

(4) All incidents involving hostile acts shall be reported by FLASH precedence message, followed by timely situation reports, direct to the Commandant, Operational Commander, National Military Command Center, CINCLANT or CINCPAC (as appropriate) and the Joint Chiefs of Staff (Holders of JCS Pub. 6 should follow OPREP-3 procedures). The Commandant will readress the reports to, or otherwise notify, other commands and offices as necessary.

4. (U) Situations not Involving Foreign Military Forces.

a. Any Coast Guard Commander shall when confronted with a threat of imminent death or serious injury, either to himself or to persons under his protection, invoke the right of self-defense.

b. The force used in these situations shall be the minimum necessary to counter the threat involved.

c. For purposes of invoking the right of self-defense, Coast Guard personnel, when engaged in law enforcement duties, are responsible for the protection of all persons subject to their jurisdiction.

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PART B: PEACETIME RULES OF ENGAGEMENT FOR COAST GUARD UNITS ENGAGED IN MISSIONS INVOLVING FOREIGN VESSELS, AIRCRAFT OR NATIONALS

1. (C) Purpose: This part of the Peacetime Rules of Engagement provides guidance for Coast Guard forces which become involved in a confrontation with foreign vessels or aircraft.
2. (C) Discussion: In connection with law enforcement, search and rescue, or other activities, a Coast Guard unit commander may encounter a hostile confrontation or threat of hostile confrontation with a foreign vessel, especially when the principal in a law enforcement action is a foreign vessel. Such confrontations also may arise due to interference by a foreign vessel or aircraft in law enforcement cases or in situations where the Coast Guard attempts to conciliate disputes between U.S. and foreign interests.
3. (C) The statutory authority and responsibility of the Coast Guard to enforce U. S. law against foreign vessels subject to the jurisdiction of the United States shall be carried out in a deliberate and controlled manner. Force shall not be used in cases involving foreign vessels without the specific authorization of the Commandant in each instance, except: (1) in accordance with the provisions of Part A of this document, a Coast Guard commander may invoke the right of self-defense; and (2) after receiving Commandant's statement of "no objection" to seizure, a unit commander may use such nondeadly force as is necessary to effect the seizure and maintain control of the vessel and persons on board. Nondeadly force is all force other than deadly force. Deadly force is any force applied with the intent of causing, or which a reasonable person should know would cause, death or serious bodily harm.
4. (U) Approach. When approaching a foreign vessel with intent to stop and board or take any other law enforcement action:
 - a. Ensure that United States and Coast Guard ensigns and other identifying insignia are displayed.
 - b. Ensure that all personnel visible on deck are in a readily identifiable uniform including headgear.
 - c. Note and record the name, homeport, number, rig, and other distinguishing characteristics of the vessel.
 - d. Ensure that means of force appropriate to the situation at hand are available for self-defense (in accordance with Part A of these Rules) or for compelling compliance with orders (in accordance with paragraph 5. below).
5. (C) Use the following procedures to stop a vessel for law enforcement purposes:
 - a. From a position which will most likely insure clear observation by the subject vessel, order it to heave to by as many of the following means

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- (1) Flaghoist
- (2) Voice via bullhorn or megaphone
- (3) Signal light
- (4) Semaphore

b. If the vessel does not heed the signals, pursue it. Continue signalling, and if possible, maintain a relative position appropriate for firing warning shots.

c. After determining that the pursued vessel: (1) obviously observed and understood the signals to stop; and (2) definitely intends not to heed those signals, warning shots may be fired as follows (Choose weapon first, then choose ammunition):

- (1) Choice of ordnance (descending order of preference)

- (a) Weapon

- 1 Largest deck gun available
 - 2 Machine gun
 - 3 Rifle

- (b) Ammunition

- 1 Blank shot
 - 2 Solid projectile tracer
 - 3 Solid projectile nontracer

NOTE: A warning shot is a signal; it does not constitute a use of force. Do not use a pistol. For short ranges, when close enough for its firing to be observed and its report heard, a machine gun or rifle may be preferred over a deck gun. A warning shot from a machine gun or automatic rifle should consist of a short burst.

- (2) Direct the shots across the bow of the pursued vessel if practicable with regard to safety of other craft, shore, and pursued vessel. If firing across the bow is impracticable, fire in the alternate safe direction considered most visible to the pursued vessel.

- (3) If time and circumstances permit, fire a minimum of three warning shots, with a time interval between successive shots long enough to allow persons aboard the pursued vessel to make evident any decision to stop. Continue to use all other means of signalling the vessel to stop during the interval between shots.

- (4) A signal flare may be fired across the bow of the pursued vessel as an additional warning or signalling device, but may not be used in lieu of warning shots.

- d. When a foreign vessel fails to comply with an order to stop and submit to boarding and has ignored warning shots fired in accordance with the

foregoing procedures, report the vessel's failure to heed the warning shots by IMMEDIATE precedence message to the Operational Commander and information to Commandant. After receipt of a statement of "no objection" from Commandant, the Operational Commander may authorize the Coast Guard commander to direct disabling fire into the vessel using the following procedure:

(1) Communicate the international signal "SQ-1" meaning "You should stop or heave to, otherwise I shall open fire on you"; or "SN" meaning "You should stop immediately. Do not scuttle. Do not lower boats. Do not use the wireless. If you disobey I shall open fire on you"

(2) Solid projectile rounds shall be fired into the ship's rudder, engineering spaces, or control spaces so as to minimize personnel injury and property damage while obtaining the desired effect of disabling the vessel.

6. (S) Procedures when a foreign military or police unit attempts to interfere with Coast Guard law enforcement efforts:

a. When a Coast Guard unit is attempting to board, is boarding, or is in pursuit of a suspected law violator, and a foreign military or police unit arrives on scene and attempts to interfere or otherwise disrupt the efforts of the Coast Guard unit, the following actions shall be taken:

(1) The Coast Guard unit commander shall:

(a) Report the incident by FLASH precedence message to his Operational Commander and information to Commandant;

(b) Publicize his unit's presence and identity by illuminating the vessel or aircraft (if at night), by displaying U.S. and Coast Guard ensigns, and by broadcasting on the international distress and other appropriate frequencies. Attempt to gain communications with the foreign unit by radio, signal light or international flag hoist and attempt to determine his intentions;

(c) Interpose his unit between the foreign unit and the pursued vessel and, if the foreign unit persists in disruptive posture, warn the foreign unit to remain clear; and

(d) Notify his Operational Commander if assistance is needed.

(2) The Operational Commander shall:

(a) Dispatch appropriate air or surface units to assist;

(b) Alert cognizant Department of Defense force commanders;

(c) Keep Commandant informed so that he can notify the National Military Command Center and, in appropriate cases, request, through diplomatic channels, the cooperation of the foreign unit's government.

(3) The Coast Guard commander shall not, without specific authorization from Commandant, use force against the interfering foreign unit, except, in accordance with Part A of these Rules of Engagement, he may invoke the right of self-defense.

(4) The Coast Guard Operational Commander should call for early DOD assistance when specific information or command judgment dictates. He should keep in mind, however, that such action may, under some circumstances, exacerbate an already tense situation.

b. When a Coast Guard unit is engaged in pursuit of a U.S. vessel or in hot pursuit (see paragraph 9. below) of a foreign vessel on the high seas and a foreign military or police unit appears on the scene with the same apparent intent, the Coast Guard commander will continue his efforts to stop and board the suspect and will not, unless directed by higher authority, deliver that craft to the foreign unit. The Coast Guard commander will make every effort to notify the foreign unit of his intentions to that effect.

7. (C) When a foreign military or police unit is in pursuit of or has seized a U.S. vessel under circumstances which support an assertion that the pursued/seized vessel has violated the laws of the foreign country, the Coast Guard commander will stand aside and not interfere with the foreign unit. Whenever possible the pursued/seized vessel and the foreign unit should be notified of the Coast Guard's intention not to interfere.

8. (C) Procedures to prevent, deter or suppress conflicts between U.S. vessels and foreign vessels on the high seas.

a. The United States seeks to reduce tensions, to deter provocative acts, and to protect the rights of U.S. citizens. Toward this end, Coast Guard commanders shall:

(1) Publicize the Coast Guard's presence in areas of possible conflict;

(2) Advise U.S. vessels and citizens of potential problem areas and warn them to avoid any actions which may be interpreted as provocative. Warn them that they are subject to arrest for violation of U. S. law if they engage in violent acts against a foreign vessel;

(3) Encourage calls from U.S. vessels if difficulties should arise;

(4) Warn any U. S. vessel fishing within a foreign fishing zone that he is subject to the fisheries law enforcement jurisdiction of the nation under whose control that zone lies;

b. Do not interfere with legitimate enforcement activities by foreign government forces (See paragraph 7. above).

c. In responding to incidents in which a foreign vessel is acting or about to act in a provocative manner, including interference with fishing gear or other property of U.S. vessels or citizens, a Coast Guard unit will:

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(1) Advise both vessels that the Coast Guard is present to prevent conflict; and

(2) Advise the foreign vessel that any complaint it has regarding the U.S. vessel should be transmitted to the United States government through the foreign government.

d. If any U.S. vessel is acting or about to act in a provocative manner, conduct a law enforcement boarding.

e. If violence develops between U.S. and foreign vessels, take the following actions:

(1) Close range, draw attention to Coast Guard vessel by all available signals, repeat advice as appropriate, offer to conciliate the dispute and to protect both parties.

(2) If the violence or threat of violence continues, interpose Coast Guard vessel between disputing parties.

(3) If necessary for protection of the Coast Guard unit or its crew or of a vessel or persons under its protection, the Coast Guard commander, in accordance with Part A of these Rules of Engagement, may invoke the right of self defense.

(4) After action ceases, if appropriate, conduct a law enforcement boarding of any U.S. vessels involved. Do not board the foreign vessel unless: (1) it is subject to the jurisdiction of the United States; or (2) authorized by international agreement, the master of the vessel, or the Commandant.

9. (U) The following guidelines shall be used in establishing and maintaining hot pursuit:

a. "Hot pursuit" is an international law doctrine under which the United States may preserve its right to exercise law enforcement jurisdiction over foreign vessels even though they may flee to the high seas beyond those geographical areas in which foreign vessels are normally subject to the jurisdiction of the United States for various purposes (e.g., the territorial sea, the contiguous zone, customs waters, the fishery conservation zone, the continental shelf) as set forth in subparagraph f. below.

b. A Coast Guard vessel or aircraft shall initiate hot pursuit on a foreign vessel by giving it an audible or visible signal to stop whenever it has good reason to believe that:

(1) the foreign vessel; or

(2) one of its boats; or

(3) any craft (vessel or aircraft) which is:

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(a) working as a team with; and

(b) using the foreign vessel as a mother ship;

is violating United States law in an area in which foreign vessels are subject to the jurisdiction of the United States for the purpose of enforcing that law (see subparagraph f. below).

c. Cases involving foreign vessels engaged in smuggling via contact boat shall be prosecuted in accordance with Commandant Instruction 5920.6 (series).

d. Hot pursuit may be continued so long as:

(1) visual or radar contact is maintained uninterrupted; and

(2) the pursued vessel does not enter the territorial sea of a country other than the United States.

e. Once contact is lost or the pursued vessel enters the territorial waters (as recognized by the United States) of a country other than the United States, the pursuit must cease; it cannot be resumed even though contact is regained or the vessel returns to the high seas.

f. Foreign vessels are subject to the law enforcement jurisdiction of the United States as follows:

Foreign vessels in this area:	Are subject to the jurisdiction of the United States for the purpose of enforcing these laws:
Territorial waters (internal waters and territorial sea)	All laws of the U.S. when the consequences of the violation extend beyond the vessel or when the master of the vessel or the consul of the flag state requests assistance.
Contiguous Zone	All laws which protect the interest of the United States in customs, immigration, fiscal or sanitary matters; laws concerning vessel discharge of oil and hazardous substances.
Fishery Conservation Zone	All laws concerning conservation and management of the living resources of the sea except tuna.
Over the Continental Shelf which appertains to the United States	All laws which protect the United States' exclusive right to explore for and exploit the resources of the Continental Shelf.

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g. Hot pursuit may be transferred from one government vessel or aircraft to another government vessel or aircraft so long as contact is maintained uninterrupted.

h. Contact will be deemed to have been maintained uninterrupted despite short periods in which no visual or radar response is available (e.g., rain squalls, interference) provided that conditions are such that after such short interlude the pursuing unit is certain of the identity of the vessel being pursued.

PART C: ADDITIONAL PEACETIME RULES OF ENGAGEMENT FOR THE GULF OF MEXICO, THE CARIBBEAN SEA, THE FLORIDA STRAITS, AND THE ATLANTIC OCEAN AREAS ADJACENT TO CUBA - PROTECTION OF U.S. AND CERTAIN THIRD COUNTRY VESSELS AND AIRCRAFT UPON AND OVER THE HIGH SEAS

1. (S) Purpose. This part of the Peacetime Rules of Engagement promulgates guidance for Coast Guard forces in protecting the interests of the United States in the freedom of navigation and the safety of its citizens and vessels on or over the high seas adjacent to Cuba.

2. (C) Discussion: The presence of Coast Guard vessels and aircraft, either on patrol or in transit, plays a significant role in U.S. foreign policy in this area. Longstanding requirements for enforcement of laws and protection of U.S. citizens in the pursuit of peaceful commerce and recreation have been expanded and complicated by other factors such as:

a. The development of a communist government in Cuba hostile to the United States.

b. The increase in tensions between the U.S. and Cuba due to the presence of a large Cuban refugee population in the United States, particularly in southern Florida, who are prone to provoke incidents between the two countries.

c. The increase in illicit drug trafficking involving U.S. and foreign vessels and aircraft which may fall into Cuban government hands.

d. The negotiation of an agreement between the U.S. and Cuba which operates to thwart the hijacking of U.S. craft to Cuba and vice-versa, and also defines the United States' policy toward suppressing anti-Cuban activities staged from the U.S.

3. (S) Basic Contingencies: The following basic contingencies may require Coast Guard action to protect the interests of the United States:

a. Contingency I - The Cuban government, through a military or paramilitary (police) force acts to seize or detain a U.S. vessel upon the high seas for one of the following reasons:

(1) As a result of a military alert in response to an actual or suspected exile raid upon Cuban vessels or shore establishments.

(2) As a result of a Cuban anti-narcotics or other law enforcement action.

(3) As a result of the vessel's exercise of the right of innocent passage through Cuban territorial seas.

b. Contingency II - The Cuban government acts to seize a vessel of third country registry under circumstances similar to those cited in subparagraph 3.a. above except that all of the following additional conditions exist:

- (1) One or more U.S. citizens are embarked in the vessel; and
- (2) The master of the threatened vessel or its flag state requests United States' aid or protection; and
- (3) The vessel has not engaged in an illegal act or an act contrary to the U.S./Cuba anti-hijacking agreement during the vessel's current voyage.

4. (S) Specific Rules of Engagement Under This Part:

a. In response to Cuban action to seize a craft of U.S. registry under Contingency I (paragraph 3.a.), the appropriate Coast Guard operational commander shall:

- (1) Dispatch appropriate air or surface units to investigate and assist as possible under constraints described in the following paragraphs;

- (2) Alert cognizant Department of Defense commanders to the possible need for immediate assistance;

- (3) Keep Commandant informed so that, in appropriate cases, he can initiate a diplomatic inquiry;

- (4) Take the following actions under the following situations as the on-scene situation dictates:

- (a) Situation A. The threatened vessel is clearly in international waters and the disposition of Cuban forces makes attack or boarding imminent:

- 1 Interpose Coast Guard craft between the vessel and Cuban forces if possible;

- 2 Publicize the Coast Guard unit's presence and identity by illuminating vessel or aircraft (if at night), by displaying U.S. and Coast Guard ensigns, and by broadcasting on international distress and other appropriate frequencies. Attempt to establish communication with the Cuban force by radio, flashing light or international flag signals, and attempt to determine the cause for the Cuban action.

- 3 If Cuban forces persist in closing the threatened vessel, warn Cuban vessels to remain clear; and

- 4 Call for DOD air and/or surface assistance.

- (b) Situation B. Cuban forces fire weapons at or physically attempt to board or seize the threatened vessel by positive and unmistakable actions: the senior military commander on scene, in accordance with Part A of these Rules of Engagement, shall invoke the right of self defense for his unit and any vessel or persons under his protection.

b. Cuban actions to seize a vessel which falls within the class of vessels addressed in Contingency II (paragraph 3.b.) call for the following actions:

(1) Take all actions specified in subparagraphs (1) through (4) of paragraph 4.a.

(2) Do not, under any circumstances within this contingency, use force against the Cuban unit, except in response to fire on a Coast Guard or other U.S. military unit, unless directed to do so by higher authority.

(3) CINCLANT CONPLAN 2345 (U) will be used in planning and training for Contingency II situations, and will be implemented when directed by Commandant.